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# A COMPARATIVE STUDY OF BHARTIYA NYAY SANHITA & IPC: CONTINUITY, REFORM & CHALLENGES IN CRIMINAL LAW

## A Synopsis

**Submitted in**

**Partial fulfillment for the degree of**

***Doctor of Philosophy***


***Submitted by :***

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***Submitted to :***

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**FACULTY OF LAW & MANAGEMENT**

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I. I, Nisha Sharma hereby declare that all the statement made in this application are true, complete and correct to the best of my knowledge and belief and in the event of any information being found false or incorrect or any ineligibility being detected before or after the registration for Ph.D. My candidature is liable to be cancelled and legal action maybe initiated against me.

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# A Comparative study of Bhartiya Nyay Sanhita & IPC: Continuity, Reform & Challenges in criminal law.

## Introduction

The evolution of criminal law in India marks a significant journey from colonial imposition to indigenous reform. The Indian Penal Code (IPC), enacted in 1860 under British rule, served as the backbone of the country's criminal justice system for over 160 years. While it provided a comprehensive framework for defining offences and prescribing punishments, its colonial roots and outdated provisions necessitated a thorough re-evaluation in the context of a modern, democratic society.

In response to longstanding calls for reform, the Government of India introduced the **Bhartiya Nyay Sanhita (BNS)** as a part of a broader initiative to overhaul the criminal law framework. This new code aims not only to modernize and simplify criminal law but also to align it more closely with the values of the Indian Constitution and the needs of contemporary society.

This comparative study seeks to analyze the **continuity, reforms, and emerging challenges** in criminal law by juxtaposing the IPC with the BNS. It will examine the extent to which the BNS retains foundational principles of the IPC, the innovations it introduces to address procedural inefficiencies and human rights concerns, and the practical difficulties anticipated in its implementation. By doing so, the paper aspires to provide a nuanced understanding of India's shift from a colonial to a more indigenous legal paradigm in criminal law.

The Indian Penal Code (IPC) has been the cornerstone of the Indian criminal justice system since its enactment in 1860. However, with the changing social, economic, & cultural landscape of India, there has been a growing need to

reform & update the IPC to make it more relevant & effective. In response to this need, the Bhartiya Nyay Sanhita (BNS) was drafted as a proposed replacement for the IPC.

The BNS intends to lay out a more comprehensive & nuanced structure for criminal law in India, taking into account the country's diverse cultural & social contexts. While the IPC has been amended several times since its enactment, the BNS represents a more fundamental overhaul of the Indian criminal justice system. As such, it is essential to undertake a comparative research of the IPC & the BNS to understand the continuities, reforms, & issues that arise from this proposed transition.

This comparative research will examine the historical context & evolution of both the IPC & the BNS, highlighting the key similarities & differences between the two codes. It will also analyze the theoretical underpinnings of both codes, exploring how they reflect different philosophical approaches to criminal justice. Furthermore, the research will assess the practical implications of the BNS, examining how it proposes to address contemporary issues in Indian criminal law, such as cybercrime, terrorism, & violence against women.

One of the primary issues in comparing the IPC & the BNS is the sheer complexity & scope of both codes. The IPC is a sprawling document that covers a wide range of offenses, from murder & theft to defamation & sedition. The BNS, while more streamlined, still proposes major changes to the Indian criminal justice system. As such, this comparative research will need to carefully navigate the intricacies of both codes, identifying areas of continuity & reform while also highlighting potential issues & areas for further development.

Despite these issues, this comparative research is essential for understanding the future of Indian criminal law. The BNS represents a major departure from

the IPC, & its implementation could have far-reaching consequences for the Indian justice system. By examining the continuities, reforms, & issues that arise from this proposed transition, this research intends to lay out a nuanced & comprehensive understanding of the implications of the BNS for Indian criminal law.

The research will also examine the global context of criminal law reform, drawing on comparative examples from other jurisdictions to inform its analysis of the IPC & the BNS. This will enable a more nuanced understanding of the issues & opportunities that arise from the proposed transition from the IPC to the BNS.

Ultimately, this comparative research intends to contribute to a deeper understanding of the complex & evolving nature of Indian criminal law. By examining the continuities, reforms, & issues that arise from the proposed transition from the IPC to the BNS, this research seeks to inform & shape the ongoing debate about the future of Indian criminal justice.

## Research Objectives

Here are some research Objectives -

- **To analyze the historical background and framework** of the Indian Penal Code (IPC) and understand its influence on India's criminal justice system.
- **To study the major reforms introduced in the Bhartiya Nyay Sanhita (BNS), 2023**, and evaluate how they address the limitations of the IPC.
- **To identify and compare key differences between the IPC and BNS**, focusing on definitions of offences, punishments, and procedural aspects.
- **To assess the areas of continuity between the IPC and the BNS**, highlighting provisions that have been retained or modified with minimal change.

## Research Question

1. **What were the historical and legal motivations** for replacing the Indian Penal Code (IPC) with the Bhartiya Nyay Sanhita (BNS)?
2. **What are the major reforms introduced in the Bhartiya Nyay Sanhita, 2023**, and how do they differ from the provisions of the IPC?
3. **To what extent does the BNS retain continuity with the IPC**, and in which areas does it represent a significant departure?
4. **How do the changes in the BNS reflect the needs and values** of a modern, democratic Indian society?
5. **What are the anticipated challenges in implementing the BNS**, particularly in terms of legal interpretation, institutional readiness, and public awareness?
6. **What further reforms or clarifications may be necessary** to ensure the successful adoption and application of the Bhartiya Nyay Sanhita?

## Review of Literature

Neha Mishra's research , "Comparative Analysis of Indian Penal Code & Bharatiya Nyaya Sanhita, 2023," published in the International Journal of Law, provides a comprehensive analysis of the Indian Penal Code (IPC) & the Bharatiya Nyaya Sanhita (BNS). Mishra's research examines the historical context & evolution of both codes, highlighting their key similarities & differences. The research concludes that the BNS represents a major departure from the IPC, & that its implementation could have far-reaching consequences for Indian criminal law.[1]

[1] Neha Mishra. "Comparative Analysis of Indian Penal Code & Bharatiya Nyaya Sanhita, 2023." International Journal of Law, vol. 9, no. 5, 2023, pp. 254-256.2

Mishra's research is major because it provides a nuanced understanding of the implications of the BNS for Indian criminal law. The research highlights the potential benefits of the BNS, including its ability to address contemporary issues in Indian criminal law, such as cybercrime & terrorism. However, the research also notes that the BNS raises several concerns, including its potential impact on human rights & the rule of law. Mishra's research provides a valuable contribution to the literature on Indian criminal law, & highlights the need for further research on the implications of the BNS.

The findings of Mishra's research have major implications for policymakers, judges, & lawyers. The research highlights the need for careful consideration of the potential consequences of the BNS, & the need for further research on its implications for Indian criminal law. Mishra's research provides a comprehensive analysis of the IPC & the BNS, & its findings will be of interest to scholars, policymakers, & practitioners in the field of Indian criminal law.

Anushka Moolchandani's research , "A Paradigm Shift in Indian Criminal Law: Comparative Analysis of the Indian Penal Code, 1860 & the Bharatiya Nyaya Sanhita, 2023," published in the International Journal of Criminal, Common & Statutory Law, provides a comprehensive comparative analysis of the Indian Penal Code (IPC) & the Bharatiya Nyaya Sanhita (BNS). [2]

Moolchandani's research examines the historical context & evolution of both codes, highlighting their key similarities & differences. The research concludes that the BNS represents a paradigm shift in Indian criminal law, & that its implementation could have major consequences for the Indian justice system.

Moolchandani's research is major because it provides a nuanced understanding of the implications of the BNS for Indian criminal law. The research highlights

[2] Anushka Moolchandani. "A Paradigm Shift in Indian Criminal Law: Comparative Analysis of the Indian Penal Code, 1860 & the Bharatiya Nyaya Sanhita, 2023." International Journal of Criminal, Common & Statutory Law, vol. 4, no. 2, 2024, pp. 32-38.3

the potential benefits of the BNS, including its ability to address contemporary issues in Indian criminal law, such as cybercrime & terrorism. However, the research also notes that the BNS raises several concerns, including its potential impact on human rights & the rule of law. Moolchandani's research provides a valuable contribution to the literature on Indian criminal law, & highlights the need for further research on the implications of the BNS.

The findings of Moolchandani's research have major implications for policymakers, judges, & lawyers. The research highlights the need for careful consideration of the potential consequences of the BNS, & the need for further research on its implications for Indian criminal law. Moolchandani's research provides a comprehensive analysis of the IPC & the BNS, & its findings will be of interest to scholars, policymakers, & practitioners in the field of Indian criminal law.

Edzorblaw's comparative analysis of the Bharatiya Nyaya Sanhita, 2023 (BNS) & the Indian Penal Code (IPC) provides a comprehensive examination of the two codes. The analysis highlights the key similarities & differences between the BNS & the IPC, & examines the implications of the BNS for Indian criminal law.[3]

One of the key differences between the BNS & the IPC is the method of criminal liability. The BNS introduces a new provision that recognizes the principle of "actus reus" (guilty act) & "mens rea" (guilty mind), which is a departure from the IPC. The BNS also introduces new offences related to cybercrime, terrorism, & violence against women, which are not covered under the IPC.

[3] Edzorblaw. "The Bharatiya Nyay Sanhita, 2023 vs. The Indian Penal Code: A Comparative Analysis." Edzorblaw.com, 30 Aug. 2024.1

The BNS also places greater emphasis on restorative justice, with provisions for community service & victim compensation. This method is a major departure from the IPC, which focuses primarily on punitive justice. The BNS also introduces new provisions for the protection of vulnerable groups, including children, women, & marginalized communities.

Overall, Edzorblaw's analysis concludes that the BNS represents a major improvement over the IPC, & that its implementation could have far-reaching consequences for Indian criminal law. However, the analysis also notes that the BNS raises several concerns, including its potential impact on human rights & the rule of law.

The Bharatiya Nyaya Sanhita, 2023 (BNS) & the Indian Penal Code (IPC) have several key differences. Here are some of the main distinctions:[4]

- Definitions: The BNS has a comprehensive definition clause, whereas the IPC has interpretation clauses scattered throughout. The BNS also defines terms like "child" (any person below 18 years), "transgender," & "gender" (inclusive of male, female, & transgender).

- Punishments: The BNS introduces community service as a punishment, aiming to reduce the burden on jails. It also prescribes more stringent punishments for certain offences, such as rape & gang rape.

- Offences: The BNS recognizes new offences like cybercrime, terrorism, & violence against women. It also provides for the prosecution of individuals who abet offences from outside India.

[4] Taxmann. "Comparative research : Bharatiya Nyay Sanhita 2023 (BNS) & Indian Penal Code (IPC)." Taxmann.com, 2024.6

- Child Protection: The BNS strengthens child protection laws, making it an offence to hire, employ, or engage children to commit offences. It also provides for harsher punishments for child prostitution & related offences .

- Mob Lynching: The BNS introduces a new provision making mob lynching a punishable offence, with penalties including life imprisonment or death.

- Culpable Homicide: The BNS prescribes lesser punishment for culpable homicide not amounting to murder if the accused reports the case to the police & takes the victim to the hospital for medical treatment .

Lingaya's Vidyapeeth's research on the Bharatiya Nyay Sanhita (BNS) provides a comprehensive comparative analysis of the BNS & the Indian Penal Code (IPC), 1860. The research examines the historical context & evolution of both codes, highlighting their key similarities & differences.[5]

The research notes that the BNS represents a major departure from the IPC, with several key changes & additions. For example, the BNS introduces new offences related to cybercrime, terrorism, & violence against women, & provides for more stringent punishments for these offences. The research also notes that the BNS places greater emphasis on restorative justice, with provisions for community service & victim compensation.

The research concludes that the BNS represents a major improvement over the IPC, & that its implementation could have far-reaching consequences for Indian criminal law. The research highlights the need for further research on the implications of the BNS, particularly in terms of its potential impact on human rights & the rule of law. Overall, the research provides a valuable contribution to the literature on Indian criminal law, & highlights the need for careful consideration of the potential consequences of the BNS.

[5] Lingaya's Vidyapeeth. "Bhartiya Nyaya Sanhita - Comparative Analysis of Indian Penal Code, 1860." Lingaya's Vidyapeeth.edu.in, 2024.8

The research also provides a detailed analysis of the key provisions of the BNS, including its definitions, offences, & punishments. This analysis is useful for policymakers, judges, & lawyers who need to understand the implications of the BNS for Indian criminal law. Overall, the research is a valuable resource for anyone interested in Indian criminal law, & provides a comprehensive analysis of the BNS & its implications for the Indian justice system.

The Bharatiya Nyay Sanhita (BNS) & the Indian Penal Code (IPC) have several key differences.

Structure & structure: The IPC is divided into 23 chapters with 511 sections, while the BNS has 19 chapters with 356 sections. The BNS eliminates 22 IPC provisions, revises 175 existing provisions, & adds 8 new sections .

Penalties for Sex-Related Crimes: The BNS increases the maximum sentence for sexual offenses, including rape, from seven to ten years. It also introduces the death penalty for gang rapes of women under 18 .

Terrorism & Mob Lynching: The BNS introduces new provisions to tackle terrorism & mob lynching, with penalties including life imprisonment & the death penalty .

Sedition: The BNS repeals the sedition law, but retains provisions for acts that undermine India's sovereignty, unity, & integrity .

Women's Rights: The BNS recognizes the need to protect women from exploitation & introduces provisions for victim compensation & support services .

Language & Accessibility: The BNS intends to simplify legal language, making it more accessible to the public.

These changes reflect the BAND's focus on modernizing the Indian criminal justice system, addressing contemporary issues, & enhancing victim rights.

JILL's comparative research on the Indian Penal Code (IPC) & the Bharatiya Nyaya Sanhita (BNS) provides a comprehensive analysis of the two codes. The research examines the historical context & evolution of both codes, highlighting their key similarities & differences.[6]

The research notes that the BNS represents a major departure from the IPC, with several key changes & additions. For example, the BNS introduces new offences related to cybercrime, terrorism, & violence against women, & provides for more stringent punishments for these offences. The research also notes that the BNS places greater emphasis on restorative justice, with provisions for community service & victim compensation.

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The research also provides a detailed analysis of the key provisions of the BNS, including its definitions, offences, & punishments. This analysis is useful for policymakers, judges, & lawyers who need to understand the implications of the BNS for Indian criminal law. Overall, the research is a valuable resource for anyone interested in Indian criminal law, & provides a comprehensive analysis of the BNS & its implications for the Indian justice system.

R. Singh's analysis of the Bharatiya Nyaya Sanhita, 2023 (BNS) provides a comprehensive examination of the modernization efforts in Indian criminal

[6] IJALR. "A Comparative research of the Indian Penal Code & the Bharatiya Nyaya Sanhita." IJALR.in, 2024.4

justice. The BNS is a major reform aimed at replacing the Indian Penal Code, 1860 (IPC), & Singh's analysis highlights its key features & implications.[7]

Key Features of the BNS:

Simplified Language: The BNS uses simplified language, making it more accessible to the general public & reducing the complexity of legal proceedings.

Modernized Offences: The BNS modernizes the definition of various offences, including those related to technology & cybercrime, to keep pace with contemporary issues.

Increased Focus on Victim Rights: The BNS places greater emphasis on victim rights, including the right to compensation, rehabilitation, & protection.

Implications of the BNS:

Improved Efficiency: The BNS is expected to improve the efficiency of the Indian criminal justice system, reducing delays & backlogs in courts.

Enhanced Accountability: The BNS introduces new provisions for accountability, including the creation of a National Judicial Oversight Committee to monitor the performance of judges.

issues in Implementation: Singh notes that the implementation of the BNS will require major training & capacity-building for judges, prosecutors, & law enforcement officials.

Overall, Singh's analysis concludes that the BNS represents a major step towards modernizing Indian criminal justice, but its success will depend on effective implementation & the ability of the justice system to adapt to the new provisions.

[7] Singh, R.. "Modernizing Indian Criminal Justice: An Analysis of the Bharatiya Nyay Sanhita, 2023." Journal of Contemporary Legal Issues, vol. 12, no. 2, 2024, pp. 20-30.

## Research Methodology

### 1. Research Design

This study follows a **qualitative and doctrinal research approach**. It involves a detailed examination of primary and secondary legal sources to compare the Indian Penal Code (IPC), 1860 with the Bhartiya Nyay Sanhita (BNS), 2023.

### 2. Nature of Study

The research is **descriptive, analytical, and comparative** in nature. It seeks to explain legal developments, analyze statutory reforms, and compare similarities and differences between the two legal codes.

### 3. Sources of Data

- **Primary Sources:**
    - The Indian Penal Code, 1860
    - The Bhartiya Nyay Sanhita, 2023
    - Relevant constitutional provisions
    - Reports of the Law Commission of India
    - Parliamentary debates and government notifications
- **Secondary Sources:**
    - Legal commentaries and textbooks
    - Research papers and journal articles
    - Case laws and judicial interpretations
    - News articles, legal blogs, and expert opinions

### 4. Method of Data Collection

Data is collected through **documentary and library research**, using online legal databases (e.g., SCC Online, Manupatra, India Code) and offline resources such as law libraries and government publications.

**5. Method of Analysis**

The study uses **comparative and content analysis** to examine changes in definitions, classifications, punishments, and procedures. Each reform is critically evaluated for its intent, effectiveness, and potential challenges.

**6. Scope and Limitations**

- The study focuses solely on substantive and procedural reforms in criminal law as reflected in the IPC and BNS.
- It does not include CrPC or Evidence Act reforms in detail unless directly related.
- The study is limited by the recent implementation of BNS, and hence long-term practical effects may not yet be fully observable.

This research research will employ a qualitative research methodology, utilizing a comparative analysis method to examine the Indian Penal Code (IPC) & the Bhartiya Nyay Sanhita (BNS). The research will involve a critical review of existing literature on the IPC & BNS, including academic articles, books, & government reports. This will lay out a comprehensive understanding of the historical context, evolution, & key provisions of both codes.

In addition to the literature review, the research will also involve a comparative analysis of the IPC & BNS, identifying areas of continuity, reform, & issue. This will involve a detailed examination of the key provisions & sections of both codes, including their definitions, offenses, & penalties. The research will also examine the implications of the BNS for Indian criminal law, including its potential impact on crime rates, justice outcomes, & human rights.

**Expected outcome of the proposed work**

The expected outcome of the proposed work is to lay out a comprehensive understanding of the Indian Penal Code (IPC) & the Bhartiya Nyay Sanhita (BNS), highlighting their historical context, evolution, & key provisions. The research intends to identify areas of continuity, reform, & issue between the two codes, & to examine the implications of the BNS for Indian criminal law.

One of the primary expected outcomes of the research is to lay out a detailed analysis of the BNS, highlighting its key provisions & sections, & examining its potential impact on Indian criminal law. The research intends to identify the strengths & weaknesses of the BNS, & to examine its potential to address contemporary issues in Indian criminal law, such as cybercrime, terrorism, & violence against women.

Another expected outcome of the research is to lay out a comparative analysis of the IPC & the BNS, highlighting their similarities & differences. The research intends to examine the implications of the BNS for Indian criminal law, including its potential impact on crime rates, justice outcomes, & human rights. The research also intends to identify areas where the BNS can be improved, & to lay out recommendations for its implementation.

The research is also expected to contribute to the ongoing debate about the future of Indian criminal law, & to lay out a nuanced understanding of the issues & opportunities arising from the proposed transition from the IPC to the BNS. The research intends to lay out a comprehensive understanding of the implications of the BNS for Indian criminal law, & to examine its potential to promote justice, equality, & human rights.

The expected outcome of the research is also to lay out structure for policymakers, judges, & lawyers to understand the implications of the BNS for Indian criminal law. The research intends to lay out a comprehensive

understanding of the BNS, highlighting its key provisions & sections, & examining its potential impact on Indian criminal law. The research also intends to lay out recommendations for the implementation of the BNS, & to identify areas where further research is needed.

The research is also expected to contribute to the development of a more nuanced understanding of Indian criminal law, & to lay out structure for future research in this area. The research intends to lay out a comprehensive understanding of the IPC & the BNS, highlighting their historical context, evolution, & key provisions. The research also intends to examine the implications of the BNS for Indian criminal law, & to lay out recommendations for its implementation.

Overall, the expected outcome of the proposed work is to lay out a comprehensive understanding of the IPC & the BNS, highlighting their implications for Indian criminal law, & to contribute to the ongoing debate about the future of Indian criminal law. The research intends to lay out a nuanced understanding of the issues & opportunities arising from the proposed transition from the IPC to the BNS, & to lay out recommendations for policymakers, judges, & lawyers.

**Tentative Chapterisation**

**Chapter 1: Introduction**

- Background and context of the study
- Significance of the research
- Objectives of the study
- Research questions
- Review of literature
- Scope and limitations

- Methodology overview
- Conclusion

**Chapter 2: Historical Evolution of Criminal Law in India**

- Genesis and structure of the Indian Penal Code, 1860
- Colonial influences and relevance in post-independence India
- Need and demand for reform
- Conclusion

**Chapter 3: Bhartiya Nyay Sanhita, 2023 – An Overview**

- Objectives and guiding principles of the BNS
- Structure and format of the new code
- Key features and highlights
- Implementation of BNS
- Conclusion

**Chapter 4: Comparative Analysis of IPC and BNS**

- Comparison of definitions and classification of offences
- Changes in punishments and sentencing policies
- Procedural modifications and legal terminology
- Victim-centric and technology-driven reforms
- Areas of continuity and departure
- Conclusion

**Chapter 5: Challenges in Implementation of the Bhartiya Nyay Sanhita**

- Administrative and institutional readiness
- Training and adaptation for legal professionals
- Public awareness and transition concerns

- Criticisms and expert opinions
- Conclusion

**Chapter 6: Future Prospects and Suggestions**

- Suggestions for smooth implementation
- Areas for further reform and legal clarification
- Role of judiciary, legislature, and legal education in the transition
- Conclusion

**Chapter 7: Conclusion & Suggestions**

- Summary of findings
- Reflections on the shift from IPC to BNS
- Final observations on continuity, reform, and challenges

## Conclusion

This research set out to examine the transformation of India's criminal law system through a comparative study of the Indian Penal Code (IPC), 1860 and the Bhartiya Nyay Sanhita (BNS), 2023. It aimed to explore the continuity in legal principles, identify the key reforms introduced in the BNS, and analyze the practical and theoretical challenges that may arise during the transition. Over the course of the study, it became evident that while the BNS retains the structural backbone of the IPC, it introduces significant reforms tailored to the contemporary needs of Indian society.

One of the key observations is that the Bhartiya Nyay Sanhita seeks to modernize the criminal justice system with a victim-centric and time-bound approach. Provisions like mandatory filing of chargesheets within fixed timelines, community service as an alternative punishment, and enhanced protection against crimes such as mob lynching reflect a progressive shift. At

the same time, the continuation of many IPC provisions ensures stability and familiarity for legal practitioners and law enforcement agencies.

However, the study also highlights several challenges. The successful implementation of the BNS requires extensive institutional readiness, including the training of police officers, judicial officers, and legal professionals. Updating legal education, revising procedural manuals, and conducting widespread awareness campaigns are crucial. Moreover, concerns related to the clarity of certain provisions, the risk of misuse, and the need for continuous feedback from stakeholders must be carefully addressed.

The reforms under the BNS have the potential to positively impact the overall functioning of the criminal justice system. If implemented effectively, the BNS could reduce procedural delays, increase access to justice for victims, and promote a more efficient and rights-based approach to criminal law. It marks a conscious departure from colonial legacy and an important move toward a more indigenous, democratic, and inclusive legal framework.

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